

REMARKS

This Amendment responds to the Office Action mailed 6 October 2009. Claims 1, 13, 28 and 45-48 are amended. Minor conforming amendments have been made to the specification, as noted above. Support for the amendments can be found in at least FIGS. 4 and 5 and the related description of those figures in the present application, including at least the description at page 5 of the specification. No new matter has been added.

Claim Rejections – 35 U.S.C. §112

Claim 13 is rejected under 35 U.S.C. §112, second paragraph, as being indefinite for use of the term “drip hole.” Claim 13 has been amended to address this issue and is now definite.

Claim Rejections – 35 U.S.C. §103

Claims 1, 13-16, 20, 28, 45-49, 51-54 and 57-59 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,767,356 to Kanner et al. Applicants respectfully traverse this rejection.

Independent claim 1 as amended recites “the second distal hole being offset longitudinally and circumferentially from the first distal hole.” Independent claim 45 as amended recites “the second distal hole is spaced apart from the first distal hole in a proximal direction; wherein the second distal hole is offset circumferentially from the first distal hole.” Independent claim 47 as amended recites “the second inlet port being offset longitudinally and circumferentially from the first inlet port.”

Independent claim 28 as amended recites “the second proximal hole being in fluid communication with the second distal hole via a flow path defined by the insertion sheath, the

flow path being positioned radially inward of an outer surface of the insertion sheath.” Independent claim 46 as amended recites “the second distal hole is in fluid communication with the second indicator via a flow path defined by the insertion sheath, the flow path being positioned radially inward of an outer surface of the insertion sheath.” Independent claim 48 as amended recites “the over insertion hole and the over insertion indicator are in fluid communication via a flow path defined by the insertion sheath, the flow path being positioned radially inward of an outer surface of the insertion sheath.”

Kanner discloses with reference to FIGS. 20 and 20A an introducer 510 that includes a sheath 512 and a dilator 520. The dilator 50 includes a port that provides access to a blood marking passageway or lumen 540. The port is positioned distal of a distal end of the sheath 512. Blood flow in the lumen 540 may be visible at a proximal end of the dilator 520 to indicate that a distal end 516 of the dilator 520 is positioned within a vessel.

Kanner further discloses with reference to an alternative embodiment in FIGS. 33 and 34, a pair of blood marking lumens 689A, 689B. The lumens 689A, 689B are attached to an outer surface of the sheath 662 and are positioned radially outward of an outer surface of the sheath 662. Distal ends of the lumens 689A, 689B define ports 674, 675. The dilator 670 positioned in the sheath 662 does not include a distal hole that is open for fluid flow “only after being positioned distally beyond the distal end of the insertion sheath,” as claimed.

Kanner fails to disclose or suggest “the second distal hole being offset longitudinally and circumferentially from the first distal hole,” as recited in claim 1, and similarly recited in claims 45 and 47. There is no teaching or suggestion by Kanner of a relative relationship between distal holes or inlet ports that includes spacing apart in both a longitudinal and circumferential

direction. Therefore, Kanner fails to disclose or render obvious every limitation of claims 1, 45 and 47, and the claims that depend from them.

Further, the lumen 540 disclosed by Kanner is defined solely within the dilator. The lumens 689A, 689B are *mounted to* exterior surfaces of the insertion sheath, the dilator, or both the insertion sheath and dilator. However, there is no disclosure or suggestion by Kanner of providing, in addition to the lumen 540, a second proximal hole being in fluid communication with a second distal hole "via a flow path defined by the insertion sheath, the flow path being positioned radially inward of an outer surface of the insertion sheath," as recited in claim 28 and similarly recited in claims 46 and 48. In contrast, Kanner discloses a flow path defined exterior of the insertion sheath outer surface by the lumen 689A, 689B that are mounted to the exterior surface of the insertion sheath 662.

Therefore, Kanner fails to disclose or render obvious every limitation of claims 28, 46 and 48, and the claims that depend from them.

Claims 21 and 60 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Kanner in view of U.S. Patent No. 6,626,918 to Ginn et al. Applicants respectfully traverse this rejection.

Kanner fails to disclose or render obvious every limitation of claims 1 and 47 for at least the same reasons as discussed above. Ginn fails to remedy the deficiencies of Kanner as it relates to claims 1 and 47. Therefore, claims 21 and 60 are allowable for at least the reason that they are dependent upon an allowable base claim. Applicants do not otherwise concede the correctness of this rejection.

Conclusion

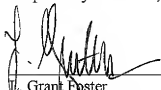
For at least the foregoing reasons, Applicants believe that each of the presently pending claims in this application is in immediate condition for allowance. Accordingly, Applicants respectfully request a favorable action on the merits. If the Examiner has any further comments or suggestions, Applicants invite the Examiner to contact the undersigned attorney to expedite the handling of this matter.

Applicants expressly disclaim all arguments, representations, and/or amendments presented or contained in any other patent or patent application, including any patents or patent applications claimed for priority purposes by the present application or any patents or patent applications that claim priority to this patent application. Moreover, all arguments, representations, and/or amendments presented or contained in the present patent application are only applicable to the present patent application and should not be considered when evaluating any other patent or patent application.

Dated: _____

6 JANUARY 2010

Respectfully submitted,



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